

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION Nos. 7720 and 4945 of 2004

W.P.No.7720 of 2004 :

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Between:

K.Malathi, w/o Chandrasekhar,
r/o Guntakal Village & Mandal, Ananthapur District.

..... PETITIONER

AND

- 1 The District Collector, Ananthapur, Ananthapur District.
- 2 The Joint Collector, Ananthapur, Ananthapur District.
- 3 The Revenue Divisional Officer, Ananthapur,

Ananthapur District.

- 4 Kum. P.V. Suvama Devi D/o. Narayana
11th Ward, Guntakal, Anantapur District.
(R4 is impleaded as per court order dt. 28-10-2004

in WPMP 14323 of 2004)

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of certiorari to call for the proceedings of the 1st respondent in D.Dis.K4/ATP/9394/99 dated Nil-10-2003 (served on later) and quash the proceedings holding them as illegal, arbitrary and violative of statutory provisions.

Counsel for the Petitioner : MR.NOOKA JAGANNADHAM

Counsel for Respondent No.1 to 3: GP FOR CIVIL SUPPLIES

Counsel for Respondent No.4 : Ms. S.V. Indira, Advocate

The Court made the following :

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W.P.No.4945 of 2004 :

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Between:

Kumari P.V.Suvarna Devi, W/o.Narayana,
R/o.11th Ward, Guntukal, Anantapur District.

..... PETITIONER

AND

- 1 The Collector & District Magistrate, Anantapur.
- 2 The Joint Collector, Anantapur.
- 3 Revenue Divisional officer, Anantapur.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the Impugned order Dis.K4/a.t.p/9394/99 dated 25-10-2003 passed by the 1 st Respondent as illegal arbitrary, null and void in so far rejecting the Revision petitioner's appointment on the ground of her relationship with Sri Adi Lingaiah, who is working on deputation in D.R.D.A. since several years, and consequently direct the 3rd Respondent to consider the petitioner's case for appointment as F.P.Shop Dealer of Shop No.20 of 11th Ward Guntakal, Anantapur District, as Mr.Adi Lingaiah belongs to her caste but not relation.

Counsel for the Petitioner : SMT.S.V.INDIRA

Counsel for the Respondents : GP FOR CIVIL SUPPLIES

The Court made the following :

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COMMON ORDER :

Both these writ petitions are filed assailing the order dated 25-10-2003 of the first respondent whereby and whereunder, the first respondent set aside the orders of respondents 2 and 3 and directed the third respondent to renotify the Fair Price Shop No.20, Ward No.11 of Guntakal Village, Anantapur District, inviting applications to appoint the authorized dealer. Though interlocutory applications are coming up for consideration, the writ petitions are being disposed of finally with the consent of the parties. The parties are referred to as they are arrayed in W.P.No.7720 of 2004.

The fact of the matter is not in dispute. The petitioner in W.P.No.7720 of 2004 was appointed as Fair Price Shop dealer of 11th Ward in 1998. Aggrieved by the same, the fourth respondent preferred an appeal before the Joint Collector, which was dismissed on 13-4-1999. The fourth respondent thereafter filed W.P.No.13649 of 1999 before this Court. This Court disposed of the writ petition giving liberty to the fourth respondent to avail the remedy of revision before the first respondent, whereupon the revision was filed by the fourth respondent. The revisional authority while setting aside the appointment of the petitioner, directed the competent authority to renotify the shop No.20 of

11th Ward. The petitioner's claim was rejected on the ground that she is not a resident of Ward No.11 where the shop is situated, placing reliance on a judgment of this Court in **M.Chandra Obula Reddy v. District Collector, Kadapa District**. The claim of the fourth respondent was rejected on the ground that her close relative Sri Adi Lingaiah is an employee of Revenue Department, and therefore, she shall not be appointed as Fair Price Shop dealer.

Learned counsel for the petitioner in W.P.No.7220 of 2004, *inter alia*, contends that the petitioner was not given notice by the revisional authority before passing the impugned order, and therefore, the same is unsustainable. In view of the same, the learned Assistant Government Pleader for Civil Supplies was directed to produce the file. A perusal of the file produced before this Court would show that though the first respondent issued notices on 7-1-2000, 29-1-2000, 1-8-2000 and 28-8-2000 to be served on the petitioner through the Revenue Divisional Officer, Anantapur, there is no proof of service of notice on the petitioner. Therefore, the allegation made by the petitioner that she was not served with a notice stands amply proved. For this reason alone the impugned order is unsustainable.

The petitioner in W.P.No.4945 of 2004, who is arrayed as respondent No.4 in W.P.No.7720 of 2004 contends that Sri Adi Lingaiah is not her relative and that he only belongs to her caste. Therefore, according to her, the order is passed without any basis. Insofar as the service of notice on the petitioner in W.P.No.7720 of 2004 is concerned, there is no dispute. Therefore, the order of the District Collector is to be set aside. In view of this and having regard to the question whether Sri Adi Lingaiah is a close relative of Ms. P.V. Suvarna Devi or not, being a question of fact, the same can be agitated before the revisional authority. Liberty is reserved to the fourth respondent to raise all the grounds before the revisional authority.

Accordingly the impugned order dated 25-10-2003 is set aside and the matter is remitted to the District Collector for *denovo* enquiry in accordance with law. This exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order, after giving notice to the petitioner and the fourth respondent.

The writ petitions are accordingly disposed of. No costs.

(V.V.S. RAO, J.)

11-07-2005.

Msr.

To

- 1 The District Collector, Ananthapur, Ananthapur District.
- 2 The Joint Collector, Ananthapur, Ananthapur District.
- 3 The Revenue Divisional Officer, Ananthapur,

Ananthapur District.

4 2 CCs to Government Pleader for Civil Supplies,

High Court Buildings, Hyderabad.

5 2 CD copies

HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION Nos.7720 AND 4945 of 2004

11-07-2005

(Msr)